

WOOD RIVER BASIN ENHANCEMENT WATER SUPPLY BANK

OPERATING PROCEDURES

Procedure 1. Authority and Statement of Purpose

1.1 These procedures have been adopted by the Local Advisory Committee (“Committee”) and approved by the Director of the Idaho Department of Water Resources (“Director”) and the Idaho Water Resource Board (“Board”), in order to implement the Wood River Basin Enhancement Water Supply Bank (“Bank”). These procedures are developed in accordance with Section 42-1765B, Idaho Code.

1.2 It is the purpose of these procedures to assure the orderly operation of the Bank. Under no circumstances shall these procedures be construed to limit the authority of the Director, the Board, or the Watermaster of Water Districts 37 and 37M and tributary streams in discharging their duties as set forth in the statutes of the state of Idaho and the rules promulgated thereto.

Procedure 2. Definitions

- 2.1 APPLICANT.** Any person requesting, through the processes specified in these procedures to donate a water right into the Bank.
- 2.2 BANK.** The entity operated by the Committee in the Upper Big Wood River Basin to facilitate donations of water rights.
- 2.3 BOARD.** The Idaho Water Resource Board.
- 2.4 COMMITTEE.** The Local Advisory Committee provided by Section 42-1765B, Idaho Code, and these procedures.
- 2.5 DIRECTOR.** The Director of the Idaho Department of Water Resources.
- 2.6 DONOR.** Any person who conveys a water right, or a portion thereof, into the Bank.
- 2.7 IDWR.** Idaho Department of Water Resources
- 2.8 MANAGER.** The individual charged by the committee to manage the Bank in accordance with these procedures, which is the duly elected watermaster of Water Districts 37 and 37M.
- 2.9 PERSON.** Any individual, company, corporation, association, firm, agency, partnership, government or other entity.
- 2.10 SRBA.** Snake River Basin Adjudication.

- 2.11 UPPER WOOD RIVER BASIN.** That portion of Basin 37 as described in the enabling legislation (Section 42-1765B (1)), or the Big Wood River upstream of the United States Geological Survey gage station 13140800 located near Stanton Crossing and above Magic Reservoir, and from Silver Creek tributary to the Little Wood River.
- 2.12 WATER RIGHT.** The right to divert and beneficially use the public waters of the state of Idaho authorized by court decree or by license or permit issued by the Idaho Department of Water Resources. For purposes of these procedures, and pursuant to Section 42-1765B (1), ground water rights are not eligible for donation to the Bank.
- 2.13 WATER RIGHT LICENSE.** The certificate issued by the director in accordance with Section 42-219, Idaho Code confirming the extent of diversion and beneficial use of the water that has been made in conformance with the permit conditions.
- 2.14 WATER RIGHT PERMIT.** The water right document issued by the director in accordance with Section 42-204, Idaho Code authorizing the diversion and use of unappropriated public water of the state or water held in trust by the state.
- 2.15 WRBEWSB.** Wood River Basin Enhancement Water Supply Bank

PROCEDURE 3. Management of the Bank

- 3.1** The members of the Water Districts 37 and 37M Advisory Board and 5 ex-officio members will comprise the Committee, as approved by the Board. The committee shall administer the Bank in accordance with section 42-1765B, Idaho Code and these procedures. The Committee may designate a subcommittee to carry out any part or all of these procedures.
- 3.2** General Responsibilities of the Committee include the following:
- A. Actively support the implementation of WRBEWSB including public distribution of information and forms;
 - B. Create application forms for the donation of water rights into the Bank and have such forms approved by the director;
 - C. Determine whether to accept, deny, or condition applications from potential donors of water rights into the Bank;
 - D. Collect administrative charges;
 - E. Evaluate, and propose to the board, changes to these procedures or other matters pertaining to the management of the Bank, as needed; and
 - F. Report annually to the Board on the activity of the Bank.

3.3 The Watermaster of Water Districts 37 and 37M shall act as Manager of the Bank. General Responsibilities of the Manager shall include the following:

- A. Have available donation application forms, once created by the committee;
- B. Receive applications for donations and inform the applicants if such applications are incomplete; and
- C. Make recommendations to the Committee regarding whether an application to donate a water right into the Bank satisfies the eligibility requirements of Procedure 4.2 and whether the Committee should accept such application to donate water rights into the Bank pursuant to Procedure 4.4.
- D. Within 30 days of a water right being accepted into the Bank, provide IDWR a copy of the terms of acceptance. Also notify IDWR in writing within 30 days of a water right being removed from the Bank.
- E. Verify that water rights in the Bank and overlapping water rights not in the Bank are not being used except for the purposes of the Bank.
- F. Distribute water rights in the Bank in accordance with Section 42-1765B, Idaho Code.

3.4 Any Donor of water aggrieved by a decision of the Committee on matters related to the operations of the Bank may appeal that decision, in writing, to the Board within fifteen (15) days of receiving written notice of the Committee's decision, in accordance with IDAPA 37.01.01

PROCEDURE 4. DONATING WATER RIGHTS INTO THE BANK

4.1 Any person who owns a surface water right in the Upper Wood River Basin may apply to the Committee to donate, in whole or in part, his or her right into the Bank. Proposed donations of water rights delivered through the District 45 Canal are only acceptable to enhance local water supplies and increase stream flows in Silver Creek and the Little Wood River and shall not be acceptable for enhancement of Big Wood River flows. A water right may be donated into the Bank for a specified period of time as determined by the Committee.

4.2 Any application to donate a water right into the Bank shall be submitted to the Manager on the proper form obtained from the Manager and shall bear the date it is received by the Manager. The application must be accompanied by the following:

- A. Proof of the existence and current ownership of the water right by the applicant, including evidence that the water right was decreed by a court, licensed or permitted by IDWR or recommended in a director's report filed in

the SRBA. For permitted rights, the permit holder shall have submitted proof of beneficial use and a Beneficial Use Field Report shall have been completed. The Committee will review any filed objections in the SRBA to the recommendation. If the applicant is not identified as the current owner on the water right record maintained by IDWR, the applicant shall file an ownership change notice with evidence of ownership to IDWR pursuant to Section 42-248, Idaho Code.

- B.** If the water right has not been used for a period of five consecutive years, evidence that the water right has not been forfeited pursuant to Section 42-222, Idaho Code.
- C.** The written consent of such company, corporation, or irrigation district to the proposed donation, if the right to the use of the water or the use of the diversion works or irrigation system is represented by shares of stock in a company or corporation or if such works or system is owned or managed by an irrigation district, canal company, corporation or other water delivery entity.
- D.** Any water right donated from a community ditch must be accompanied by evidence that the donor has notified the community ditch manager or the community ditch users if there is no ditch manager.

4.3 If an application is not complete, the Manager will correspond with the applicant to obtain the needed information. If the needed information is not supplied within thirty (30) days, the application will no longer be considered a valid request to place a water right into the Bank.

4.4 The Manager will make a recommendation to the Committee regarding whether an application to donate a water right into the Bank satisfies the eligibility requirements of Procedure 4.2 and whether the Committee should accept such application to donate a water right(s) into the Bank. The Committee may reject in whole or in part, or place conditions upon, any application to donate water rights into the Bank. In determining whether to accept water rights into the Bank, the Committee will consider the following:

- A.** Whether the applicant has satisfied the eligibility requirements of Procedure 4.2;
- B.** The elements of the water right, such as historical point of diversion, place of use, priority date, amount of water, and the nature of use, and water district records and other information, to determine if water is available to fill the water right and to ensure that acceptance will not injure other water rights. The Committee shall review the application to ensure that the proposed lease is consistent with Idaho Law, including the following:
 - 1.** The committee shall not accept any water right in the Bank that results in the removal of that water right from a group of overlapping water rights that are used for the same use and appurtenant to the same place of use. If

an application proposes removal of a surface water right overlapped by a supplemental ground water right, the application shall not be accepted unless the right holder agrees in writing to not use the ground water right or the ground water right has been transferred to another location and used as a supplemental source to other surface water rights.

2. The limitations and conditions stated on the decree, SRBA recommendation, license, or permit for the water right.
 3. If the donated right is delivered through a community ditch, the community ditch management and the Committee will determine a transportation loss that would stay in the community ditch to prevent injury to other water right owners in the community ditch.
- C. Other factors determined to be appropriate by the Committee, including whether the applicant has paid all outstanding water district assessments.

4.5 Once the Committee accepts a donation, placement of that water right into the Bank is governed as follows:

- A. The applicant may withdraw the right from the Bank within 30 days of acceptance by the Committee;
- B. The Donor is not authorized to continue the diversion and use of the right after acceptance into the Bank;
- C. A donated water right shall remain in the Bank for the time period approved by the Committee unless removed from the Bank by the Committee;
- D. The Donor shall remain responsible for all legal actions concerning the donated water right(s).
- E. Any unauthorized use of the donated water right may result in enforcement procedures pursuant to Section 42-351, Idaho Code, for illegal diversion and use of water, and may include civil penalties pursuant to Section 42-1701B, Idaho Code.
- F. Acceptance of the specified right into the bank does not, in itself, confirm the validity of the right or any elements of the water right, or improve the status of the right. It does not preclude the opportunity for review of the validity of the water right in the ongoing SRBA or any other IDWR application process.
- G. During the term of acceptance, water rights in the Bank are protected from forfeiture under the provisions of Sections 42-223 and 42-1764, Idaho Code.

**Procedure 5. MANAGEMENT AND MEASUREMENT OF DONATED
WATER RIGHTS, AND ADMINISTRATIVE CHARGES**

5.1 The Donor shall be assessed the water district's normal water delivery cost for delivering the donor's water right(s) to the appropriate points of diversion and return flow locations described in Section 42-1765B. The watermaster for water district 37/37M shall collect assessments for delivery of donated rights pursuant to Chapter 6, Title 42, Idaho Code. Any additional water district expenses resulting from the administration of water rights donated under this section shall be treated as expenses related to the administration of nonconsumptive water rights under Section 42-605A, Idaho Code; and shall be collected by the watermaster from the owners of the donated water rights or other persons agree to pay such costs.

5.2 All donated water with diversion points originating above the District 45 Canal diversion at Bellevue will be diverted out of the Big Wood River into the District 45 Canal.

5.3 The point of delivery in the District 45 Canal for donated water will be at the head of the Baseline Lateral of the District 45 Canal, which is located at 1N19E32SWSESW.

5.4 The point of delivery for all donated water rights with diversion points below the District 45 Canal will be at the 57F divide (1N18E36NWNWNW) where it will return to the Big Wood River from the Baseline Bypass.